

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MINUTES
AUGUST 8, 2003**

The following narrative and summary highlights actions taken by the North Carolina Alcoholic Beverage Control Commission at its regular meeting on August 8, 2003. The meeting was tape-recorded and the tape is on file at the ABC Commission/Legal Division.

ROLL CALL

Acting Chair Ann Scott Fulton was present for the meeting, along with Commissioner Ricky Wright. Commissioner Mike Joyner was not present.

MINUTES OF JULY 11, 2003 MEETING

The Chairman asked Commission Member Ricky Wright if he had any corrections or additions regarding the Commission minutes from the July 11, 2003, meeting. Commissioner Wright had no corrections or additions. The Chairman made a motion to approve and waive the reading of the minutes into the record. Seconded by Commissioner Wright. So Ordered.

EXECUTIVE ORDER REGARDING CONFLICTS OF INTEREST

As required by Executive Order Number One, the Chairman asked Commissioner Wright if there were any known conflicts of interest or any conditions or facts that might create the appearance of a conflict of interest with respect to any matters on the Agenda. Commissioner Wright stated that he had a conflict of interest with regard to case #64, Safari Grille. The Chairman stated she found no conflicts of interest with regard to herself. Case #64, Safari Grill will be continued and Mr. Wright will recuse himself.

I. HEARING CASES – 75 listed.

Chief Deputy Counsel Fred Gregory stated that Assistant Counsel LoRita K. Pinnix was the ABC attorney for contested case #1, Depot. Mr. Gregory stated that Temporary Administrative Law Judge John C. Hunter ruled that the establishment fail to do the following: Failed to qualify as a sports club because it did not derive at least 15% of its required club activity fees from sources other than receipts for food; and failed to maintain full and accurate monthly reports of amounts collected from the sale of spirituous liquor, malt beverage, fortified wine, unfortified wine, club activity fees and food, as required by statute. Temporary Administrative Law Judge John C. Hunter recommended to uphold the Notice of Rejection by the Commission that the application for the ABC permits be denied and the temporary permit currently held by the petition be revoked. The

Chairman made a motion to adopt the Findings of Fact and Conclusions of Law of Judge Hunter. Seconded by Commissioner Wright. So Ordered.

Chief Deputy Counsel Fred Gregory stated that William H. Potter, attorney for case #66, O' Charley's 332 was present, along with representatives from the company. Mr. Potter stated that O' Charley's was deeply sorry and disappointed that the violation happened and also stated that the company wanted the Commission to know that it was a personnel problem; that they have taken steps to remedy that problem. They have also made sure that all employees go through the ALE training. Mr. West Wilkerson, Regional Director introduced the other representatives. Mr. J. D. Jones, new General Manager; Will Tankerson, Area Supervisor and Pam Dorm, Home Office Compliance. Mr. Wilkerson stated that when they found out about the violation, they fired the manager and stepped up the training program. Mr. Wilkerson thanked the Commission for listening to them. The Chairman said that she appreciated that they came and spoke before the Commission. The Chairman moved to ratify the offer in compromise. Seconded by Commissioner Wright. So Ordered.

Mr. Gregory stated that Mrs. Debra Arnett and Jeff Fields were present to speak on behalf of case #61, Express Depot, sale to underage. Mr. Fields stated that the employee had been through in-house training and that the store had received a secret shopper certificate. Mr. Fields expressed concern over the business owners getting penalized and the employee only getting a slap on the wrist. The Chairman stated that she understood his frustration and that it was one that was shared by many business owners. She stated that maybe they should meet with their district court judges in their county. Mr. Fields stated that he had spoke with the district attorney in his county and was told that the judges basically feel sorry for the clerks. The Chairman stated that until the courts get tougher they will still have problems. The Chairman made a motion to ratify the offer in compromise.

Mr. Gregory stated that Steven Jones and Darron Jones were present to speak on behalf of their business, case #17, Orion. Mr. Steven Jones stated that they have gone to extensive lengths to insure that their patrons are of legal age to consume alcoholic beverage. He further stated that they had confiscated many fake ID's and turned them over to the authorities. Mr. Jones said that he takes the rules and regulations of the ABC very seriously. The Chairman asked Mr. Steven Jones if the ID's were checked on the three underage individuals that entered the business at the door. Mr. Jones said that they were carded at the door. The doorman has been fired since this incident. He further stated that patrons now double laminate the license, so that makes it harder to read. He also said that they are now rolling deodorant sticks on the back side of their hand, so when you mark them as they enter the club, they can later wipe it off or use a alcohol swab to wipe it off. The Chairman asked if they had thought about using wristbands for the people who are old enough. Mr. Jones said that they got a lot of complaints from patrons 21 years and older.

The Chairman stated that because of the prior violations they couldn't reduce the penalty. The Chairman made a motion to ratify the offer in compromise. Seconded by Commissioner Wright. So Ordered.

Mr. Gregory stated that Mr. Darnell Evans was present to speak regarding July's Commission case #88. Mr. Evans stated that he was in the process of selling his business and asked that the Commission give him a little more time to finish up the sale. The Chairman made a motion to rescind the Final Agency Decision of July 11, 2003 and enter a Final Agency Decision dated August 8, 2003, with the effective date September 5, 2003.

Mr. Gregory stated that the legal division has had a hard time with some of the locations getting their Final Agency Decision. There were two businesses that did not have their certified return receipt green card in their files and they were Korner Stop Mart and Wilmington Auto Truck Stop. Mr. Gregory asked that the Final Agency Decisions be amended and resent to the permittee's for the August 8, 2003 Commission. The Chairman made a motion to amend the effective dates of the Final Agency Decision for both of these businesses and make the effective date September 5, 2003. Seconded by Commissioner Wright. So Ordered.

The following cases were continued:

#14 - Market Basket Galaxy

#64 - Safari Grille

REMAINING OFFERS IN COMPROMISE

The Chairman made a motion to accept all offers in compromise except the ones that were either earlier ratified or continued. Seconded by Commissioner Wright. So Ordered.

II. The following is a list of violation cases, in which Orders were signed by the Chairman on August 8, 2003, pursuant to the Commission's authorizing resolution dated November 8, 2002:

Eckerd Drugs 8555 – 3798 Guess Road, Durham, NC 27705

Handy Mart 47 – 1605 Herring Avenue, Wilson, NC 27893

Sam's Mart 30 – 835 Clanton Road, Charlotte, NC 28217

Sheraton Grand Hotel Inn and Marina – 1 Bicentennial Park, New Bern, NC 28562

Texas Steakhouse and Saloon – 3231 Martin Luther King, Jr. Blvd., New Bern, NC

Town A Country – Highway 55, Oriental, NC 28571

Ashley Road Amoco B P – 1400 Ashley Road, Charlotte, NC 28208

Bi Lo 235 – 3301 Freedom Drive, Charlotte, NC 28208

Convenience Plaza – 2736 Freedom Drive, Charlotte, NC 28708

George Pappas Liberty Lanes – 2501 South York Road, Gastonia, NC 28052

Maritime Market – 8 Maritime Way, Bald Head Island, NC 28461
Murphy's Pub – 401 Asheville Avenue Suite 109, Cary, NC 27511
Omni Mart – 1809 South York Road, Gastonia, NC 28052
Quik Mart – 2501 Freedom Drive, Charlotte, NC 28208
Silver Express – 901 Gastonia Highway, Bessemer City, NC 28016
Silver Express – 5115 North Tryon Street Suite 1, Charlotte NC 28213
Clarks Mini Mart – 26605 Highway 264 East, Pantego, NC 27860
Delview Mart – 906 Delview, Cherryville, NC 28021
Greenfield Super Store – 509 Greenfield Street, Wilmington, NC 28401
Han Dee Hugos 21 – 6170 Ocean Highway, Winnabow, NC 27479
Handy Mart 53 – 4107 Highway 17 South, New Bern, NC 28561
J and E Oasis – 202 Main Street, South Mills, NC 27976
Mi Terra Mexican Store – 225 North Arendell Avenue, Zebulon, NC 27597
Pastime Billiards and Pub – Carolina East Center Suite 3, Greenville, NC 27834
Rick's Convenience Store – 1120 North 14th Street, Bessemer City, NC 28016
Ronnie's Middle Sound Inn – 7219 Market Street, Wilmington, NC 28411
Southbound Service Station – 3056 Old Ocean Highway 17, Bolivia, NC 28422
Trade Mart 47 – 4100 Clarendon Blvd., New Bern, NC 28560
Twin Rivers Fuel Market – 3203 Martin Luther King, Jr. Blvd., New Bern NC 28562

III. ABC Store Location – Greensboro ABC Board - ABC Administrator Michael Herring presented information regarding Greensboro ABC Board requesting approval to relocate the ABC store on 3722-C Battleground Avenue to 3716-A Battleground Avenue. The proposed location is in the same shopping plaza as the current store. The reason for the new location is that they have grown out of their current location and desire more space and a more customer friendly. The nearest school is a daycare center and its located ¼ of a mile from the proposed location. There is no church located with 2 miles from the proposed location. Pursuant to ABC Commission Regulations, the 30 day Notice of Intent to open an ABC store was posted. To date no objections have been received to the proposed site. There is no conflict of interest. Mr. Herring made a recommendation to approve the location. The Chairman made a motion to approve the ABC store location. Seconded by Commissioner Wright. So Ordered.

IV. OTHER BUSINESS

No other business, new or old, was heard. The Chairman made a motion to adjourn the meeting. Seconded by Commissioner Wright. So ordered.

With no further business, the meeting adjourned.

Ann Scott Fulton, Acting Chair
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by

Tiffany C. Goodson, Legal Division